

NOTICES OF EMERGENCY RULEMAKING

Under the Administrative Procedure Act, an agency may determine that adoption, amendment, or repeal of a rule is necessary for immediate preservation of the public health, safety, or welfare and the notice and public participation requirements are impracticable. Under this determination, the agency may adopt the rule as an emergency and submit it to the Attorney General for review. The Attorney General approves the rule and then files it with the Secretary of State. The rule remains in effect for 180 days. An emergency rule may be renewed for one 180-day period if the requirements of A.R.S. § 41-1026 are met. If the emergency rule is not renewed or the rule is not permanently adopted by the end of the 180-day period, the emergency rule expires and the text of the rule returns to its former language, if any.

NOTICE OF EMERGENCY RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 11. VETERINARY MEDICAL EXAMINING BOARD

[R08-295]

PREAMBLE

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| <p><u>1. Sections Affected</u>
R3-11-105</p> <p><u>2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):</u>
Authorizing statute: A.R.S. § 32-2207(9)
Implementing statute: A.R.S. §§ 32-2219(C) and 32-2250(3)</p> <p><u>3. The effective date of the rule:</u>
September 8, 2008</p> | <p><u>Rulemaking Action</u>
Amend</p> |
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Under A.R.S. § 41-1032(A)(1), the Board requests an immediate effective date for this rulemaking to enable it to preserve public health and safety. The legislative sweep of \$609,500 from the Board's fund in FY2009 means the Board will not have the funds required to operate. Indeed, as the attached tables show, with a fee increase in FY2009, the Board will again have adequate resources in FY2011. Without a fee increase in FY2009, the Board will operate with a deficit beyond FY2012. This endangers the Board's ability to fulfill its primary duty, which is to protect the public from unlawful, incompetent, unqualified, impaired, or unprofessional practitioners of veterinary medicine (see A.R.S. § 32-2207).

Licenses and certificate holders renew their licenses or certificates only in even-numbered years. This means that renewals will be done at the end of 2008. To begin to address the deficit created by the legislative sweep of the Board's fund, the Board needs to collect increased renewal fees this year. To collect increased renewal fees this year, this rulemaking must be in effect before renewal notices are mailed in October.

VETERINARY MEDICAL EXAMINING BOARD: SOURCES AND USES WITH A FEE INCREASE IN FY2009

	FY2009	FY2010	FY2011	FY2012
Balance from prior year	\$460,000	\$289,805	(\$50,195)	\$388,805
Revenue				
Biennial renewals	\$789,000	\$0	\$789,000	\$0
New applications	\$100,305	\$110,000	\$100,000	\$100,000
Total revenue	\$889,305	\$110,000	\$889,000	\$100,000
Total funds available	\$1,349,305	\$399,805	\$838,805	\$488,805

Notices of Emergency Rulemaking

Expenditures				
Appropriation	\$450,000	\$450,000	\$450,000	\$450,000
Fund sweep	\$609,500			
Total expenditures	\$1,059,500	\$450,000	\$450,000	\$450,000
Balance forward to next year	\$289,805	(\$50,195)	\$388,805	\$38,805

VETERINARY MEDICAL EXAMINING BOARD: SOURCES AND USES
WITHOUT A FEE INCREASE IN FY2009

	FY2009	FY2010	FY2011	FY2012
Balance from prior year	\$460,000	\$189,805	(\$150,195)	\$288,805
Revenue				
Biennial renewals	\$689,000	\$0	\$789,000	\$0
New applications	\$100,305	\$110,000	\$100,000	\$100,000
Total revenue	\$789,305	\$110,000	\$889,000	\$100,000
Total funds available	\$1,249,305	\$299,805	\$738,805	\$388,805
Expenditures				
Appropriation	\$450,000	\$450,000	\$450,000	\$450,000
Fund sweep	\$609,500			
Total expenditures	\$1,059,500	\$450,000	\$450,000	\$450,000
Balance forward to next year	\$189,805	(\$150,195)	\$288,805	(\$61,195)

4. Is this rulemaking a renewal of a previous emergency rulemaking?

No

5. The name and address of agency personnel with whom persons may communicate regarding the rule:

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 Address: Veterinary Medical Examining Board
 1400 W. Washington St., Suite 240
 Phoenix, AZ 85007
 Telephone: (602) 542-8150
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 E-mail: Jenna.jones@vetboard.az.gov

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The Board is increasing the fee that a licensee or certificate holder pays to renew the license or certificate. The increase in fees is necessitated by a fund sweep that the legislature put into the state's FY2009 budget. The Board had \$460,000 in its fund at the end of FY2008. The Board anticipated collecting \$789,305 in FY2009. Before any expenditure, the Board would have \$1,249,305 in FY2009. The legislature swept \$609,500 from the Board's fund as part of the state's FY2009 budget and appropriated \$450,000 for the Board's FY2009 operations for a total of \$1,059,500. This leaves the Board with \$189,805 in its fund at the start of FY2010, which is less than the \$450,000 required to operate the Board during FY2010. Because renewals occur only in even-numbered years, the Board will not collect enough in FY2010 to meet its operating expenses. It will begin FY2011 with a deficit of \$150,195 unless renewal fees are increased in FY2009. If renewal fees are increased in FY2009, the Board will still start FY2011 with a deficit but the deficit will only be \$50,195.

The Board anticipates that the fee increase in this rulemaking will generate approximately \$110,000 every two years. Ten percent of the fee increase goes to the state's general fund. The increase, which puts renewal fees at the statutory maximum, still leaves the Board with a deficit in both FY2010 and 2011. However, with an increase in renewal fees

in FY2009, the Board will work out of the deficit in FY2011. Without the increase in FY2009, the deficit will continue beyond FY2012.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The summary of the economic, small business, and consumer impact:

This rulemaking increases the fee that a licensee or certificate holder pays to renew the license or certificate. The increased fee is a cost of doing business for the licensee or certificate holder that may be passed to consumers of veterinary services. Because the Board contributes 10 percent of the fees collected to the state's general fund, the rulemaking will increase state revenue.

The Board had \$460,000 in its fund at the end of FY2008. The Board anticipated collecting \$789,305 in FY2009. Before any expenditure, the Board would have \$1,249,305 in FY2009. The legislature swept \$609,500 from the Board's fund as part of the state's FY2009 budget and appropriated \$450,000 for the Board's FY2009 operations for a total of \$1,059,500. This leaves the Board with \$189,805 in its fund at the start of FY2010, which is less than the \$450,000 required to operate the Board. Because renewals occur only in even-numbered years, the Board will not collect enough in FY2010 to meet its operating expenses. The Board will begin FY2011 with a deficit.

The Board anticipates that the fee increase in this rulemaking will generate approximately \$110,000 every two years. The increase, which puts renewal fees at the statutory maximum, still leaves the Board with a deficit. However, with an increase in renewal fees in FY2009, the Board will work out of the deficit in FY2011. Without the increase in FY2009, the deficit will continue beyond FY2012.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

10. Incorporations by reference and their location in the rule:

None

11. An explanation of the situation justifying the rule's making as an emergency rule:

This rulemaking increases the fee that a licensee or certificate holder pays to renew the license or certificate. The increase in fees is necessitated by a fund sweep that the legislature put into the state's FY2009 budget.

Under A.R.S. § 32-2218, all licenses expire on December 31 of an even-numbered year. Under A.R.S. § 32-2246, all certificates expire at the same time. Because license and certificate renewals occur only in even-numbered years, the Board needs to have the fee increase in place by October 2008 so the increased fees can be referenced in renewal notices sent to licensees and certificate holders before the end of the year.

The Board has already initiated the regular rulemaking process but because of the notice and comment provisions of A.R.S. §§ 41-1022 and 41-1023, the time required under A.R.S. § 41-1052 for obtaining Council's approval of a rulemaking, and the delay required under A.R.S. § 41-1032 for a rule to become effective, the regular rulemaking process cannot be completed before renewal notices are mailed in October 2008. Indeed, the regular rulemaking process cannot be completed before all licenses and certificates expire on December 31, 2008.

The need for emergency enactment of the fee increases does not result from the Board's delay or inaction. Indeed, the state's FY2009 budget, which included the sweep that created the need for the fee increase, was not approved until the end of June 2008.

12. The date of the Attorney General's approval of the emergency rule:

September 2, 2008

13. The full text of the rule follows:

TITLE 3. AGRICULTURE

CHAPTER 11. VETERINARY MEDICAL EXAMINING BOARD

ARTICLE 1. GENERAL PROVISIONS

Section
R3-11-105. Fees

ARTICLE 1. GENERAL PROVISIONS

R3-11-105. Fees

A. Veterinarian fees are as follows:

1. No change
2. No change
3. No change
4. No change
5. No change
6. License renewal - ~~\$350.00~~ \$400.00
7. No change
8. No change
9. No change
10. No change

B. Veterinary technician fees are as follows:

1. No change
2. No change
3. No change
4. Certificate renewal - ~~\$50.00~~ \$100.00
5. No change
6. No change

C. No change

1. No change
2. No change
3. No change
4. No change
5. No change

D. No change

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change

E. No change

F. No change

G. No change

H. No change